

8

Notice of Allowability	Application No.	Applicant(s)	
	10/669,719	YAMADA ET AL.	
	Examiner	Art Unit	
	Janis L. Dote	1756	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/16/05.
2. ☒ The allowed claim(s) is/are 1,2 and 5-12.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Art Unit: 1756

1. This office action is responsive to the amendment filed on Dec. 16, 2005. The examiner acknowledges the amendment to claim 7 and the cancellation of claim 3 set forth in the amendment filed on Dec. 16, 2005. Claims 1, 2, and 5-12 are pending.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance:

The objection to the specification set forth in the office action mailed on Sep. 16, 2005, paragraph 4, has been withdrawn in response to the amended Table 2 of the specification filed on Dec. 16, 2005.

The objection to the specification set forth in the office action mailed on Sep. 16, 2005, paragraph 5, has been withdrawn in response to the amendment to claim 7 set forth in the amendment filed on Dec. 16, 2005.

The rejection of claim 3 under 35 U.S.C. 112, first paragraph, set forth in the office action mailed on Sep. 16, 2005, paragraph 7, has been mooted by the cancellation of claim 3 set forth in the amendment filed on Dec. 16, 2005.

Art Unit: 1756

The rejection of claims 3 and 7 under 35 U.S.C. 102(e) over US 2004/0086794 A1 (Yamada), set forth in the office action mailed on Sep. 16, 2005, paragraph 9, has been withdrawn in response to the cancellation of claim 3 and the amendment to claim 7 set forth in the amendment filed on Dec. 16, 2005. Applicants have perfected their claim to foreign priority for the subject matter recited in instant claims 1, 2, and 5-12, by canceling claim 3 and amending claim 7 as set forth in the amendment filed on Dec. 16, 2005. The certified English-language translation of the priority document Japanese Patent Application No. 2003-081472 filed on Jul. 26, 2005, provides antecedent basis as set forth under 35 U.S.C. 112, first paragraph, for the subject matter recited in instant claims 1, 2, and 5-12. Accordingly, Yamada is not prior art.

Claims 1, 2, and 5-12 are allowed over the prior art of record for the reasons discussed above and for the reasons discussed in the office action mailed on Sep. 16, 2005, paragraph 3, which are incorporated herein by reference.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1756

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janis L. Dote whose telephone number is (571) 272-1382. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Mark Huff, can be reached on (571) 272-1385. The central fax phone number is (571) 273-8300.

Any inquiry regarding papers not received regarding this communication or earlier communications should be directed to Supervisory Application Examiner Ms. Claudia Sullivan, whose telephone number is (571) 272-1052.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLD
Feb. 13, 2006

Janis L. Dote
JANIS L. DOTE
PRIMARY EXAMINER
GROUP 1500-
1700